

IN THE HIGH COURT OF JUDICATURE OF RAJASTHAN
AT JODHPUR

:: ORDER::

Jetha Ram

Vs.

Trilok Chand & Ors.

**S.B. CIVIL WRIT PETITION NO.2430/2004 UNDER ARTICLE
226 OF THE CONSTITUTION OF INDIA.**

DATE OF ORDER : 17.3.2005

REPORTABLE

PRESENT
HON'BLE MR.PRAKASH TATIA, J.

Mr.D.K.Parihar, for the petitioner.

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Heard learned counsel for the petitioner.

The trial court granted injunction in favour of the petitioner vide order dated 16.12.2003, but the order of injunction was vacated by the appellate court vide order dated 9.2.2004.

According to learned counsel for the petitioner, the appellate court vacated the interim order only on the ground that the defendants-appellants before the first appellate court were in actual possession of the property in question. According to learned counsel for the

petitioner that finding is absolutely wrong in view of the fact that petitioner was granted licence by the Krishi Upaj Mandi Samiti respondent no.6 and also gave possession letter to the petitioner. According to learned counsel for the petitioner any letter evidencing their legal possession is not with any of the respondents-defendants.

It appears from the order of the first appellate court that first appellate court considered the actual physical possession and to prevent any dispute after holding that since the defendants are in possession of the property vacated the injunction order.

Learned counsel for the petitioner submitted that in view of the disputed facts, the first appellate court should have at the most passed the order for maintaining the status-quo instead of vacating the injunction order. The argument advanced by learned counsel for the petitioner is devoid of any force and would not have served the purpose for which the interim order was passed by the court. The interim orders are passed by the courts to avoid all disputes and not to give an occasion to parties to the litigation to create disputes on spot. When there is a dispute in relation to immovable property and the court feels satisfied that plaintiff is in possession of the property and entitled for relief of injunction under order 39 Rules 1 and 2 CPC then the court should pass the injunction restraining other party and normally should

not pass mere the order to maintain status-quo which can be either misinterpreted unknowingly or it may be interpreted wrongly and deliberately to create dispute. In case where the court intends to decline to pass any injunction order in favour of the plaintiff on the ground that the defendant is in possession then also the court should not pass mere order of maintaining the status quo by the parties without specifically recording the purpose for which the status-quo order has been passed to avoid any dispute on spot between the parties because of the possibility of two interpretations of the order in the name of bonafide interpretation or for the purpose of raising dispute. The court should avoid to pass any order which may lead to dispute on spot so that the parties are not left to settle their score on the property instead of getting the decision from the court.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-